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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EDIE PARKER LLC, :
v. Plaintiff, : CIVIL ACTION
MILLY LLC, :
Defendant. : COMPLAINT
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Plaintiff complaining of defendant, alleges as follows:

NATURE OF THE CASE

1. Plaintiff Edie Parker LLC is widely recognized among fashion professionals and consumers. It is known for high quality and innovative designs. Its popular handbags, which are carried by fashionable and famous women worldwide, are highly regarded in the fashion industry and have been featured in numerous publications, at red-carpet events, in the Fifth Avenue windows of Bergdorf Goodman and as the cover item on Bergdorf Goodman's 2015 "Brilliant Gifts" Holiday Catalog. But as is often the case where years of creative efforts lead to success, piracy is sure to follow.

2. Defendant is also a seller of ladies' handbags, among other products. But rather than create and market its own designs, it sells handbags that parasitically copy Edie Parker's protected handbag trade dress design. Edie Parker handbags are individually designed and made in the United States from the highest quality materials by skilled American craftsmen. In contrast, the handbags sold and offered for sale by

Defendant are of inferior quality to genuine Edie Parker handbags and are produced in China, displaying inferior workmanship and inexpensive materials. The association of such products with Edie Parker tarnishes the Edie Parker brand and harms its reputation for fine quality products.

3. These unlawful activities by Defendant have continued despite repeated correspondence demanding that Defendant cease them. Plaintiff is now forced to bring this suit for trade dress infringement to put a stop to Defendant's blatant acts of piracy.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction over the claims in this action arising under the Trademark Act of 1946, as amended, relating to trademark and trade dress infringement and unfair competition pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338.

5. This Court has supplemental jurisdiction over the claims in this Complaint arising under New York common law pursuant to 28 U.S.C. § 1337(a), because the state law claims are so related to the federal claims that they form part of the same case or controversy and derive from a common nucleus of operative facts, and pursuant to 28 U.S.C. §1338.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and 1400.

THE PARTIES

7. Plaintiff Edie Parker LLC ("Edie Parker") is a limited liability company formed and existing under the laws of the State of New York, having an office and place of business at 14 East 60th Street, New York, NY 10065.

8. Defendant Milly LLC (“Milly” or “Defendant”) is a limited liability company organized and existing under the laws of the State of New York, having an address at 265 West 37th Street, 20th floor, New York, NY 10018.

The Edie Parker Brand and Businesses

9. Edie Parker is a brand of vintage-inspired clutches and handbags based in New York City. Founded in 2010 by designer Brett Heyman, Edie Parker sprang from Ms. Heyman’s love of mid-century style. Inspired by acrylic bags made in America in the 1950s and 1960s, she began collecting vintage purses and researching their long-lost designers and original fabrication techniques. When Ms. Heyman could no longer find the clutches she coveted at vintage and second-hand shops, she decided to make them for a new generation. Like their mid-century predecessors, each bag is meticulously handcrafted in America.

10. Conceived of as a line of acrylic clutches, Edie Parker has evolved to include new silhouettes, shoulder straps, and a variety of materials while remaining true to the original brand aesthetic. In addition to acrylic, the bags are now fabricated in 18k gold-plated metal, exotic skins, embroidery, leather, and velvet, among others.

11. The Edie Parker bespoke collection was launched in May 2012. It allows customers to personalize their clutches by selecting the shape, color, clasp, font, and other details. Since its inception, the program has become a favorite among fashionable women, and has been recognized for its unique and appealing aesthetics by celebrities, the media and other tastemakers.

12. Edie Parker has been recognized on numerous occasions by the fashion press for the unique and fashionable styling, design and high quality of its products.

Edie Parker products have been featured in editorial content in various magazines, including Vogue, Vanity Fair, In Style, Architectural Digest, Elle, and Harper's Bazaar.

13. Edie Parker thus enjoys a high reputation, and has considerable goodwill, among consumers of fashion goods for its line of ladies' handbags.

The EDIE PARKER Trademark

The Edie Parker Box Clutch Trade Dress

14. In 2010, Edie Parker introduced a line of box-shaped clutch handbags which it marketed in two variations under the names Flavia and Jean. This line has become famous among high-fashion consumers and aficionados, and is considered a "must have" item for those attending, for example, the Oscars and other celebrity events. For example, in September 2015, *Vanity Fair* commented

Edie Parker clutches, the vintage-inspired collection of bags from designer and company founder Brett Heyman, are carried by the most fashionable ladies around the world. The must-have wardrobe accessory, often an acrylic jewel of a rectangle, is extra chic when bespoke detailing is added.

15. The trade dress of the Box Clutch handbag (the "Edie Parker Box Clutch Trade Dress") consists of a collocation of design elements. The combination of all or almost all such elements together give the handbags a distinct overall look and commercial impression. Although these elements cannot be perfectly described in words, the following describes the elements of the Edie Parker Box Clutch Trade Dress:

- (a) The overall shape of the bag is a rectangular box, which includes top and bottom portions, left and right side portions, and back and front portions. The top, bottom, left and right side portions are comprised of two parts.

- (b) The top, bottom, front, and back portions are longer horizontally than vertically, and the side portions are longer vertically than in depth;
- (c) the edges of the bag are rounded;
- (d) the bag is made of a rigid plastic looking material;
- (e) the bag opens at the top, with the rectangular box separating into front and back parts, the separation occurring along a plane parallel to the front and back portions of the bag when in closed spatial relationship with each other;
- (f) the front and back parts are maintained in closed spatial relationship with each other by a closure device positioned at the top portion of the bag;
- (g) the closure device includes:
 - (1) a plate secured at the mid-point of each of the top portions of the front and back parts of the bag;
 - (2) two prominent spaced-apart spheres are secured to one of the plates of the top portion of one of the parts of the bag;
 - (3) on the top portion of the other part of the bag a long arm is secured at one of its ends to the plate by a rotating hinge, at the other far side end of the arm the arm terminates in a sphere, the sphere being generally the same size as the two spheres on the top portion of the other part, and the length of the arm being such that, when the bag is in closed spatial relationship, the arm extends from the top portion of one

part to the top portion of the other part, the arm fitting into the space between the two spaced-apart spheres, and the sphere at the end of the arm fitting snugly just beyond the two spheres, such that together the three spheres form a triangular arrangement when the closure is shut.

16. The Edie Parker Box Clutch Trade Dress is illustrated in the following pictures:



17. The collocation of features set forth in the above paragraph constitute a distinctive trade dress that has secondary meaning. The Edie Parker Box Clutch Trade Dress has been extensively promoted in the United States, has achieved significant sales success, and has been extensively featured and commented upon in the fashion press. The relevant consuming public has come to recognize this design as distinctive of Edie Parker's line of handbags and as an indication of source of such items. The Edie Parker Box Clutch Trade Dress is thus a means by which Edie Parker is known to the public and the trade as the sole source and origin of these items. Accordingly, the trade dress design has very strong consumer association with Edie Parker, and the mark is a very strong mark.

18. The Edie Parker Box Clutch Trade Dress is not functional, as that term is used in trade dress law, for at least the following reasons:

- (a) The design elements listed above, when viewed in combination and in their totality, do not create any functional advantage for the handbags, either in terms of holding objects, carrying or any other utilitarian advantage. Accordingly, the handbag design claimed as a trade dress in no way affects the quality of the product.
- (b) There are hundreds, if not thousands, of alternative handbags designs being marketed by numerous competitors of Edie Parker at numerous price points, including several alternative designs being offered for sale on Defendant's own website, none of which infringe upon the claimed trade dress. There is accordingly no competitive need to copy the Edie Parker Box Clutch Trade Dress.
- (c) Nothing about the claimed design elements makes a handbag cheaper or easier to manufacture.
- (d) The design elements of the trade dress have never been the subject of any utility patent or application for a utility patent.
- (e) Plaintiff has never advertised the Box Clutch as having any particular utilitarian advantage as a function of the trade dress design. Although the handbags are, of course, examples of superb craftsmanship, such is not a function of their design, and handbags bearing other designs have likewise been manufactured by Edie Parker.

Defendant And Its Infringing Activities

19. Defendant has offered for sale and sold both in its boutiques and on its website ladies handbags that bear designs that are confusingly similar to those of Edie Parker, and which have in fact caused actual confusion among fashion conscious consumers.

20. Defendant has neither sought nor received a license from Edie Parker for any purpose whatsoever.

21. Defendant, without Edie Parker's permission, intentionally and knowingly has and continues to engage in these infringing activities, even after correspondence complaining about these activities was sent to it. These activities have been done and continue to be done willfully and in bad faith.

COUNT I

TRADE DRESS INFRINGEMENT

15 U.S.C. § 1125(a) and Common Law

22. Plaintiff repeats and reincorporates herein by reference each of the foregoing allegations.

23. Defendant has sold and offered for sale certain of its handbags that reproduce, copy and imitate the Edie Parker Box Clutch Trade Dress in a manner that is confusingly similar to the distinctive trade dress of Edie Parker.

24. Defendant's adoption and use of the Edie Parker Box Clutch Trade Dress described hereinabove constitutes trade dress infringement and deliberate and willful violations of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125 (a).

25. Defendant's actions described hereinabove constitute trade dress infringement and unfair competition in violation of New York common law.

26. The actions and conduct of Defendant complained of herein have damaged Edie Parker and will, unless restrained, further impair, if not destroy, the value of the Edie Parker Box Clutch Trade Dress and the goodwill associated therewith.

27. Plaintiff has no adequate remedy at law, and is suffering irreparable harm and damage as a result of the acts of Defendant as aforesaid in an amount thus far not determined, but believed to be in excess of Fifty Thousand Dollars (\$50,000).

WHEREFORE, Plaintiff demands:

1. That Defendant, its agents, servants, employees and attorneys, and those in active concert or participation with them or any of them, be enjoined and restrained:
 - (a) From further selling, offering for sale, advertising, and distributing goods that bear the Edie Parker Box Clutch Trade Dress;
 - (b) From representing, suggesting in any fashion to any third party, or performing any act which may give rise to the belief that Defendant, or any of its goods, are authorized or sponsored by Edie Parker; or
 - (c) From otherwise competing unfairly with Plaintiff in any manner.
2. That Defendant be required to deliver up to Plaintiff for destruction any and all goods in its possession that infringe upon the trade dress identified herein.
3. That Defendant be required, pursuant to 15 U.S.C. § 1117, to account to Plaintiff for any and all profits derived by it, and for all damages sustained by Plaintiff by reason of Defendant's actions complained of herein, and/or statutory damages, which Plaintiff may at a later time elect to recover.

4. That pursuant to 15 U.S.C. § 1117, Plaintiff has and recovers from Defendant, Plaintiff's reasonable attorneys' fees, costs and disbursements of this civil action.

5. That Plaintiff be awarded punitive damages.

6. That Plaintiff be awarded both pre-judgment and post-judgment interest on each and every damage award.

7. That Plaintiff have such other and further relief as the Court may deem just and proper.

Dated: September 20, 2016
New York, New York

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By: _____

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